

KENNETH ROSS

IBLA 77-540

Decided February 16, 1978

Appeal from decision of Wyoming State Office, Bureau of Land Management, rejecting drawing entry card oil and gas lease offer W 60375.

Set aside and remanded.

1. Oil and Gas Leases: Applications: Generally—Oil and Gas Leases: Applications:
Attorneys-in-Fact or Agents

Where a drawing entry card submitted in a simultaneous oil and gas lease filing has been signed by the applicant, its completion by a duly authorized agent, including insertion of a current date, all else being regular, does not call into play other requirements of pertinent regulations.

APPEARANCES: Stephen Warm, Esq., Warm and Kingsbury, Willingboro, New Jersey, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Kenneth Ross appeals from the Wyoming State Office, Bureau of Land Management, decision dated August 25, 1977, which rejected his drawing entry card (DEC) lease offer drawn August 12, 1977, with first priority for Parcel WY 14 in simultaneous filing list No. 7-77. The DEC bears the date "9/14/76" in blue ink similar to the signature of the offeror, and an over stamped date "Jul 20, 1977" in red ink. The rejection was based upon 43 CFR 1821.2-2(a) which mandates rejection of all applications to make entry which are executed more than 10 days prior to filing.

Appellant states he utilized the services of First American Oil Lease Services, Inc. (First American) of Dallas, Texas, under a contract entered into September 1, 1976. Thereafter he signed (and

from force of habit) dated a number of DEC's received from First American, on which his name and address had been typed. The DEC's were returned to First American for insertion of the appropriate parcel number and mailing to the proper BLM office at the proper times. Thereafter, when First American performed its contractual services, i.e., insertion of the parcel number, the appropriate date was stamped over the written date on the reverse of the DEC. Appellant contends the true date of execution and completion of the DEC is the date stamped thereon in red ink.

In Kathryn J. Eckles, 28 IBLA 390 (1977), this Board held that a successfully drawn DEC is not to be rejected because the card is signed prior to the date of the beginning of the simultaneous filing period unless it is signed more than 10 days prior to the date it is filed. So, in this case it must be ascertained which of the two dates, "9/14/76" or "Jul 20, 1977" is the crucial date governing the execution of this DEC.

[1] In Virginia A. Rapozo, 33 IBLA 344 (1978), this Board held that where a DEC submitted in a simultaneous oil and gas lease filing has been signed by the applicant, its completion by a duly authorized agent, all else being regular, does not call into play other requirements of the pertinent regulations.

It is undisputed in this case that Ross manually signed the DEC (and placed the date of such action on the DEC), and then transmitted the DEC to First American for completion in accordance with his agreement with the Service. Insertion of a current date by First American at the time it completed the DEC was within the duties contemplated by the agreement between Ross and First American. It thus may be accepted that the date "Jul 20, 1977" applied by rubber stamp is the governing date of the DEC of Ross for parcel WY 13.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Wyoming State Office is set aside, and the case

remanded for issuance of an oil and gas lease in response to the DEC of Kenneth Ross for parcel WY 13 on List 7-77, all else being regular.

Douglas E. Henriques
Administrative Judge

We concur.

Martin Ritvo
Administrative Judge

Frederick Fishman
Administrative Judge

